



COUNCIL ORDER No. 0015466

BEFORE THE GAS SUB- COUNCIL
On June 28, 2016

IN THE MATTER OF the Safety Codes Act, Revised Statutes of Alberta 2000, Chapter S-1.

AND IN THE MATTER OF the Refusal of a Gas Certificate of Competency dated April 27, 2016 issued by the Administrator of Certification (Respondent) against an applicant (Appellant).

UPON REVIEWING the Refusal of the Certificate of Competency **AND UPON HEARING** the Appellant and the Respondent; **THIS COUNCIL ORDERS THAT** the Refusal of the Certification of Competency is **CONFIRMED**.

Issue:

1. The Appeal concerns the Refusal of the Appellant's application for a Gas Certificate of Competency. The focus of the appeal is the entry qualifications requirement of the Safety Codes Council policy on gas safety codes officer certification.

Appearances and Preliminary, Evidentiary or Procedural Matters:

2. The Appeal Panel heard from the Appellant. Accompanying the Appellant was his wife, who did not testify.
3. The Appeal Panel heard from the Respondent, Administrator of Certification, with the Safety Codes Council.
4. At the commencement of the hearing, the Appellant and Respondent confirmed there were no objections to any members of the hearing panel, and that the Safety Codes Council (Council) in general and the Appeal Panel in particular had jurisdiction to hear and decide the appeal.
5. The Chair then explained the process to be followed in hearing this appeal, and referred to a list of the written material before the panel, consisting of the documents listed below in The Record, paragraph 6 as items a) to f). The Appellant and Respondent confirmed that there were no objections to any of the written material submitted to the Appeal Panel prior to the hearing.

The Record:

6. The Appeal Panel considered, or had available for reference, the following documentation:
 - a) Notice of Appeal (pages 1 to 56)
 - b) Acknowledgement Letter dated May 10, 2016 (page 57)
 - c) Appeal Hearing Brief Preparation Guide (page 58)
 - d) Written Notice of Appeal (pages 59 to 60)
 - e) Brief of the Appellant (re-submission of pages 1 to 56)
 - f) Brief of the Respondent (page 100 to 109)
 - g) Exhibit 1 - Appellant

Provisions of the *Safety Codes Act*:

7. The *Safety Codes Act* (S-1, RSA 2000), as amended provides, *inter alia*:

Part 3 Standards

Certificate issues

- 42 (1) On receipt of an application, an Administrator may issue a certificate of competency to a person who complies with the requirements of this Act.
- (4) The Administrator shall serve written notice of a refusal to issue a certificate of competency or of the suspension or cancellation of a certificate of competency on the applicant for or the holder of the certificate of competency.
- (5) A person who is refused a certificate of competency or whose certificate of competency is suspended or cancelled may appeal the refusal, suspension or cancellation to the Council in accordance with the Council's bylaws.

Provisions of Safety Codes Council Policies:

8. Council Policy 4.70 – Certification Levels – Gas provides, *inter alia*:

Policy

1. SCOs in the Gas discipline shall be classified in the following Groups:
 - a) **Group A** (Natural gas and propane installations, except those for highway motor vehicles)
2. The Gas Sub-Council may approve amendments to the Technical Training identified in the Appendices but any other amendments to this policy require approval from the Board of Directors.
3. Certificates of competency for SCOs in the Gas discipline shall be issued in accordance with the following outline

Group A

5. Entry Qualifications:

- b) Journeyman gasfitter certification recognized in Alberta; and
- c) Five (5) years of relevant work experience as a journeyman gasfitter.

9. Council Policy 4.100 – General Requirements - Certification provides, *inter alia*:

Policy

Establishing Certificates of Competency

1. Sub-councils may establish safety codes officer certificates of competency for their respective technical disciplines upon approval by the Board of Directors.
2. The requirements for obtaining, maintaining and renewing a safety codes officer certificate of competency shall be established in Safety Codes Council (Council) policy.
3. The requirements for obtaining a safety codes officer certificate of competency established by a sub-council shall include:
 - a) Entry level qualifications;
 - b) Base competency training consisting of:
 - i. Introduction of the safety codes system;
 - ii. Written communications;
 - iii. Verbal communications; and
 - c) Discipline specific technical training.

Reviewing Applications and Issuing Certificates

5. The process for issuing a safety codes officer competency review or certificate of competency shall include:
 - a) submission of a completed application and supporting documentation from an applicant;
 - b) review of application and supporting documentation by the Administrator; and
 - c) a response to the applicant.
6. The Administrator may ask the Technical Administrator of the discipline in which a safety codes officer certificate of competency is being sought to review the application and supporting documentation and provide a recommendation as to whether a certificate of competency could be issued.
7. The Administrator may consult a Certification Sub-Committee to determine whether an applicant possesses the education and experience to obtain a certificate of competency.
8. The mandate, governance and membership of a Certification Sub-Committee shall be in accordance with the Terms of Reference established in Appendix B.
9. An applicant shall affirm that they will adhere to the Safety Codes Officer Code of Ethics before being issued certification as a safety codes officer.

Position of the Parties:

Appellant

From the Appellant's submissions and testimony the Appellants' position may be summarized as follows:

- 10.** The Appellant feels his professional experience, and specifically his most recent experience leading the Accreditation for the Inspection Body (IB) under the Standards Council of Canada should be taken into consideration by the Panel Members. His proven positive contribution and knowledge gained through the process has made him familiar with the Safety Codes Act, CAN/CSA Gas code family, including all the technical aspects of CSA B149.1-15, CSA B149.2-15 and CSA B149.3-15 while developing the Competency Matrix and Job Description for Gas Code Inspector candidates (see Exhibit 1 – Appellant).
- 11.** While preparing these documents he gained technical knowledge (page 9 of his submission) “of the testing processes and procedures, of specific technical standards and their application.” Skills he believes he acquired include “report writing, communications skills, inspections and audit skills, management skills, and the ability to exercise good professional judgement.” Finally, the Appellant says he has demonstrated competency in working alone or as part of a team, and building and maintaining productive relationships.
- 12.** On pages 8 and 9 of his written submission, the Appellant describes certain work related activities, including one as a homeowner, that have allowed him to apply the CAN/CSA B149.1-10 Natural Gas and Propane Installation code. In response to a question from the Panel, the Appellant confirmed he has no other hands on experience with gas installations and although familiar with the cycle's necessary to fire an installation of over 400,000 BTU's, he has never done such. He was not familiar with other codes, for example the CSD-1 (Controls and Safety Devices for Automatically Fired Boilers) Code or the CSA B51 (Boiler, Pressure Vessel and Pressure Piping) Code.
- 13.** An educational assessment at the University of Toronto found his credentials equivalent to a four-year bachelor's degree in Mechanical Engineering.
- 14.** The Appellant asked the Panel Members to note the theoretical and practical training he has completed and the knowledge gained, as set out on pages 5 – 8 of his written submission.
- 15.** In his written submission the Appellant included several Professional Statements and letters of reference from people he has worked with and for.
- 16.** His Resume (pages 14 – 21) provides additional detail to supplement what is documented earlier.
- 17.** The Appellant submitted new written documentation identified as Exhibit 1. Exhibit 1 is information regarding his work with a past employer, including 2 documents setting out Inspection Procedures and Training & Qualification Requirements, part of a process to allow his past employer to be certified as an inspection agency by the Standards Council of Canada. If approved, the company would be only the second such organization in Canada to

be so certified.

18. The appellant oversaw the creation of these documents, including supervision of five other individuals and as necessary, consultation with technical experts.
19. Also included in the document was a Competency Matrix (2 pages) to confirm his level of competence to the ISO Standard.
20. Also included in Exhibit 1 are letters of reference, and the Panel Members were referred specifically to one from a consultant, who was actively involved in the development of the CSA B149.1-15 Natural Gas and Propane Installation Code as that document will attest.
21. Finally, the Panel Members were referred to Page 1 of 15 of Exhibit 1, documenting all of the sign-offs including himself.
22. The additional information contained in Exhibit 1 was submitted to demonstrate the Appellant's level of competence, including written and technical skill.
23. In response to a question from the Panel, the Appellant referred the Members to Appendix A (Competency Matrix) referring to the competencies identified as associated with a Gasfitter B and Gasfitter A as an Inspector under the program.
24. The Appellant believes 18 years in the industry plus the evidence he has presented supports his contention that he has the qualifications and experience that should be considered equivalent to a Journeyman Gasfitter with 5 years' experience, thus meeting the Entry Requirements set out in Council policy 4.70.
25. In response to a question from the Panel, the Appellant referred the Members to page 9 of his original written submission (final paragraph), acknowledging that Council policy "outlines the path to be recognized as a Safety Codes Officer. As such, I would like to reinforce the fact that my desire is to be successfully enrolled in the additional training that is required for certification as a Safety Codes Officer (SCO) in the Gas discipline which is currently in high demand in the province of Alberta."

Respondent

From the Respondent's submissions and testimony, the Respondent's position may be summarized as follows:

26. The Respondent advised the Panel Members that when the Council receives an application for certification as a safety codes officer, the first thing that is considered is whether the applicant meets the Entry Qualifications as set out in Council policy.
27. Policy 4.70, Certification Levels – Gas, identifies the Entry Qualifications to become a safety codes officer in the gas discipline as a "journeyman gasfitter certification recognized in Alberta, and five (5) years of relevant work experience as a journeyman gasfitter.

28. Upon reviewing the Appellant's application, the Respondent recognized his extensive experience and code knowledge but these assets did not meet the intent of the policy requiring several years' experience as a gasfitter.
29. In response to a question from the Appeal Panel, the Respondent confirmed there is no equivalency identified in the policy, and it was the Respondent's opinion that a journeyman gasfitter with five years' experience would have necessary skills, in excess of those identified by the Appellant in his submission.
30. While there would be consideration given to equivalencies in the training component of the policy requirements, this does not occur until after the entry qualifications have been met and the Appellant simply does not meet either of the identified entry qualifications.

Reasons for Decision (Findings of Fact and Law):

The Appeal Panel makes the following findings:

31. The issue before the Appeal Panel is the refusal of the Appellants application for a Certificate of Competency on the basis that he does not meet the entry qualifications for the Gas Group A discipline as identified in Council policy 4.70.
32. Entry Qualifications are clearly identified in the policy document and despite the Appellant's extensive Resume both inside and outside of Canada; it is acknowledged he is not a journeyman gasfitter with five years' experience.
33. The entry qualifications identified in the current policy document have been in place for many years and have been revisited regularly during that time. The Board of Directors, upon the recommendation of the Gas Sub-council believe the extensive training an individual undergoes to become a journeyman gasfitter, and the knowledge and insight gained while working in that trade is a necessary component in becoming an effective safety codes officer.
34. The Appeal Panel is satisfied therefore, that the Appellant does not have the necessary experience and education to be considered equivalent to an experienced journeyman gasfitter and should not be granted equivalency for the identified entry qualifications,

Dated at Edmonton, Alberta this 18 day of July 2016

Chair, Gas Sub-Council Appeal Panel